
SUMMARY

Summary of Report 18/2021, relating to local government procedures for the non-judicial recognition of liabilities, year 2018

Barcelona, 3 November 2021

The Public Audit Office for Catalonia has issued Report 18/2021, relating to local government procedures for the non-judicial recognition of liabilities (NJRL) in year 2018, in accordance with its Annual Programme of Activities.

The report, which was presented by Board Member Mr Joan-Ignasi Puigdollers, was approved by the Audit Office Board at its meeting on 15 October 2021.

The audit assignment was centred on analysing the files of procedures for the non-judicial recognition of liabilities which had been approved during year 2018 at provincial councils and at municipal councils with a population of more than 20,000 inhabitants.

The NJRL procedure is regulated in legislation as an exceptional measure for allocating to the current year's budget finalised claimable expenditures from previous years which were undertaken but not included in the corresponding year's budget cycle, thereby failing to comply with article 173.1 of Spain's Consolidated Local Government Finances Regulatory Act (TRLRHL).

The report covers sixty-eight local government organisations: four provincial councils and sixty-four town and city councils. In year 2018 forty-five of these sixty-eight authorities (66% of the organisations within the scope of the audit) approved 741 NJRL files, totalling €28.36m.

The report's analysis is based on the information and documentation sent in by the organisations and has been basically focused on showing the usage of, and the circumstances giving rise to, these NJRL procedures.

The findings arising from the audit work carried out are given in section 3.1 of the report. These findings basically refer to the excessive use of NJRL by the local authorities, often in cases not envisaged in current legislation. The most significant findings can be summarised as follows:

- The origins of the approved NJRL files were: lack of comptrollership review (31%), decisions made in disregard of objections (60%), and other cases (9%) where the organisation recognised as payments due, in the budget outturn, liabilities which had been improperly taken on using the NJRL procedure. The review detected that the organisations did not consistently treat in the same way the self-same reasons for initiating an NJRL procedure.
- Of all the files analysed, totalling €16.51m, 18% originated from expenditures that had been properly acquired, for which there was actually no need to have used this type of

procedure. The remaining 82% were for improperly acquired expenditures, of which 41% had contractual issues of some kind: there was either no contract, the contract had expired, or the item was not covered by the contract in force.

- As regards the accounting year these expenditures originated in, of the € 16.51 m analysed, a total of € 11.67m derived from expenses in year 2017, of which € 2.96m were properly acquired and € 8.71m improperly acquired.

In terms of how these expenditures from year 2017 had been put on the books, of the € 11.67m, only invoices for € 8.14m had been included under account heading 413, Creditors Pending Apportionment to the Budget as at 31 December 2017, representing just 69.8% of the total. As a result, invoices totalling € 3.53m were not accounted for under that heading.

In some instances councils had included in their budgetary accounts in advance, in year 2017, invoices which had only been entered on the incoming invoices register during the first few days of 2018.

- In year 2018 none of the organisations analysed ordered, on their own initiative, a review of expenditures processed through NJRL files, and neither did any officials in charge assign responsibility for negligence or failure to comply with regulations to those dealing with the paperwork.

Lastly, in section 3.2 the report offers a series of recommendations regarding regulations that ought to be passed and other internal control and organisational aspects. As regards statutory regulations, the report proposes that the relevant authorities establish clear and wide-ranging regulations concerning the exceptional circumstances under which the NJRL procedure can be used. Furthermore, until these necessary regulations actually exist, it recommends that local authorities pass the following measures in their budgetary execution rules:

- Designating the Plenary Council, as the highest governing body, with the authority to approve NJRL files, without allowing this to be delegated or parcelled out on the basis of the matters or amounts involved.
- Getting a report from managers on the causes leading to NJRL procedures.
- Getting a report from the secretary for the council with his or her opinion on the validity of initiating an ex officio review.
- If the accounts comptroller, in spite of taking into account article 110 of the Common Administrative Procedure Act, deems that it is possible and advisable to call for an ex officio review of decisions made, he or she needs to lodge the report envisaged by article 28 of Royal Decree 424/2017, of 28 April, which governs the legal regime of the comptroller-ship function, thereby giving an assessment of possible unfair enrichment, recurring issues or the public interest being compromised.

This summary is solely for information purposes. The audit report (in Catalan and Spanish) can be consulted at www.sindicatura.cat.